

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(SUMBAWANGA DISTRICT REGISTRY)

AT SUMBAWANGA

LAND APPEAL NO. 06 OF 2022

(From Sumbawanga District Land and Housing Tribunal in Land Appeal No. 16/2021)

JOFREY KALAVERY SELEMANI APPELLANT

VERSUS

KALAVERY SELEMANI 1ST RESPONDENT

JAMES KAJANJA 2ND RESPONDENT

JUDGMENT

28/03/2023 & 16/05/2023

MWENEMPAZI J.

The appellant is aggrieved by the decision of the District Land and Housing Tribunal for Rukwa at Sumbawanga in Land Application No. 16 of 2021. He is appealing against the whole decision on the ground that the trial tribunal erred in deciding the dispute without analyzing and considering evidence adduced by the appellant which prove he is the lawful ownership of land in dispute.

He prays the appeal be allowed with cost and decision of the District Land and Housing Tribunal be quashed and set aside and declare the appellant as

lawful owner. He also prays for any other relief this Honourable Court deems fits and just to grant.

The appellant filed an application in the District Land and Housing Tribunal of Rukwa District at Sumbawanga against the Respondents herein named. In the application, the appellant was claiming a farm measuring two acres where he was alleging that the 1st respondent has sold to the 2nd respondent without the consent of the applicant. In his claim the applicant alleged that the said two acres were bought by the applicant on 10th October, 2006 from his grandfather one Eneriko Sangu. He prayed that the Tribunal be pleased to issue orders to the Respondents to vacate the suit promises and pay the cost of the application.

The application was served to the Respondents who never entered appearance. The Trial Tribunal proceeded with hearing exparte under Regulation 11(1) (c) of the Land Disputes Courts (The District Land and Housing Tribunal) Regulation, 2003 G.N. No. 174 of 2003.

At the hearing in the Trial Tribunal the applicant testified in person that he bought the dispute land from his grandfather (Eneriko Sangu) on maternal side for Tshs. 35,000/= . He has been cultivating the said farm since then up until when he married in 2009, he also continued to use the land. The

second witness for prosecution Eneriko Sangu testified that he sold the farm to the 1st Respondent and his wife for Tshs. 30,000/= . On the date he sold the farm to the 1st respondent the applicant was absent.

The gentlemen assessors had their opinion in writing and opined that parties be ordered to reconcile at the Ward tribunal and the other assessor said reconciliation be at home.

The tribunal Chairman at the end concluded that the applicant had failed to substantiate his claims thus she dismissed the claims with cost.

In this appeal, the appellant has complained that the Chairperson did not evaluate the evidence tendered. At the hearing the applicant alleged that the chairperson returned a copy of contract which was signed on the date he purchased. However, the 1st Respondent insisted that the farm was bought by him and when the appellant was born he found the 1st Respondent cultivating the farm. Even Eneriko Sangu (PW2) testified that the farm belong to the 1st Respondent and his wife. The appellant prayed the appeal be dismissed.

I have also read the record, dispute there being no contract of sale, the witness supposed to testify for the appellant was categorical that the farm was bought by the 1st Respondent and his wife.

In my view, the District Land and Housing Tribunal made a proper decision after analysis of the evidence tendered. I find no fault in the decision reached. Furthermore, although there is no contract document, still Eneriko Sangu testified in favour of the 1st respondent.

Under the circumstances the appeal is dismissed with cost for want of merit. It is ordered accordingly.

Dated and delivered at Sumbawanga this 16th day of May, 2023.



T.M. Mwenempazi

T.M. MWENEMPAZI

JUDGE